



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

AUG 31 2015

Secretary Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, Southwest
Washington, D.C. 20554

Dear Secretary Dortch:

Thank you for this opportunity to comment on the Federal Communication Commission's (FCC) proposed rule - Lifeline and Link up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund (47 CFR Part 54).

The Food and Nutrition Service (FNS), an agency of the United States Department of Agriculture (USDA), works to end hunger and obesity through the administration of 15 federal nutrition assistance programs. In partnership with State and Tribal governments, our programs serve one in four Americans during the course of a year. Working with our public, private and non-profit partners, our mission is to increase food security and reduce hunger by providing children and low-income people access to food, a healthful diet and nutrition education in a way that supports American agriculture and inspires public confidence.

FCC's proposed rule discusses ways to increase coordination between Lifeline and three FNS programs – the Supplemental Nutrition Assistance Program (SNAP), the National School Lunch Program (NSLP), and the Food Distribution Program on Indian Reservations (FDPIR) Program. Each of these Federal programs is overseen at the Federal level, but administered at the State and local level. As such, coordination with Lifeline to administer Lifeline eligibility and certification functions is particularly challenging on a nationwide basis. The challenges for each program are elaborated below.

Supplemental Nutrition Assistance Program

SNAP is a Federal nutrition assistance program that provides a supplement to the food budget of eligible low income households. Benefits are provided as a monthly allotment on an Electronic Benefit Transfer (EBT) card which is used to purchase eligible food at authorized retailers. Eligibility for SNAP is based on a variety of factors including household size, income, and resources, minus any allowable deductions. SNAP is administered at the State level with Federal monitoring and oversight by the USDA's FNS.

The FCC is proposing the coordination of application, enrollment, and distribution of benefits between SNAP and Lifeline in a number of different ways. FNS has several serious concerns regarding FCC's SNAP-related proposals, which we address within the following six categories:

- 1) SNAP is administered by State agencies which have significant local control over administrative decisions.
- 2) State agencies face tremendous pressure to maintain and/or improve existing services with limited resources.
- 3) Federal funding for SNAP can only be spent on SNAP activities.
- 4) FCC and FNS have an existing data sharing agreement outlining appropriate procedures.
- 5) FNS' SNAP regulations are not wholly consistent with Lifeline's goals.
- 6) Disbursement of Lifeline benefits on SNAP EBT cards would present several challenges.

- 1) **SNAP is administered by State agencies which have significant local control over administrative decisions.** As noted above, while SNAP is a Federal program, it is administered at the State and local level. As a result, each State agency makes its own decisions about how to administer SNAP, within the bounds allowed by Federal law. Significantly, however, much of the daily administration of SNAP by State agencies is controlled by State law, to the extent the State law does not conflict with Federal law. The role of the FNS is to oversee SNAP policy and ensure that States are implementing SNAP laws and regulations with fidelity and integrity. This arrangement also means that FNS does not have access to individual SNAP client case files and does not make SNAP eligibility determinations for individual households. The only operational aspect of SNAP that FNS does administer directly is approval and oversight of food retailers authorized to accept SNAP benefits.

This local control means that State agencies have the ability to administer SNAP in a way that best meets local needs. While this is a strength of the program, it also means that, in some cases, FNS cannot dictate what particular actions State agencies take, so long as a State's actions fall within the bounds of Federal law. For instance, some State agencies that administer SNAP have also chosen to administer other Federal assistance programs through that same organization. This is a State level decision. Correspondingly, FNS does not have the authority to require State agencies who administer SNAP to share administration with other programs. Consequently, if the FCC would like to coordinate enrollment between SNAP and Lifeline under current statutory authorities, the FCC would have to approach each State agency individually and get their assent and cooperation to proceed. However, FNS offers some cautions with considering this approach, as discussed in subsequent section to this comment.

Given that SNAP is administered by State agencies, FNS could not function as a national verifier administering Lifeline consumer eligibility and certification functions as envisioned

in the proposed rule. FNS does not have access to State databases, making it impossible to determine consumer eligibility. FNS also lacks administrative capacity to process applications. The decentralized administrative structure of SNAP also presents significant obstacles to FNS directing State administration of Lifeline enrollment eligibility and certification functions. FNS lacks the legal and administrative capacity to control or direct the State agency's administration of these Lifeline functions.

- 2) **State agencies face tremendous pressure to maintain or improve existing services with limited resources.** State agencies are increasingly asked to do more with fewer resources, and are more highly scrutinized for the actions they take than ever before. If the FCC would like to approach State agencies to implement joint processing, or other forms of coordinated enrollment, the FCC should first understand the overextended environment within which State agencies currently operate. Adding Lifeline to the administration of existing programs and to the existing eligibility systems would likely create considerable additional costs for States, and potentially tax their ability to maintain current operations and make needed improvements for existing programs. FNS would have concerns over any diversion of resources that would negatively impact the administration of SNAP at the State level.

For instance, FNS has an ongoing initiative to improve State agency performance with regard to client application processing timeliness. States with poor performance in this area are investing considerable effort to improve business processes, eligibility systems, and worker training to bring their application timeliness rate to an acceptable level. FNS also continues to work closely with State agencies to enhance monitoring of program operations to ensure SNAP applicants receive the benefits to which they are entitled. Similar process improvements are underway for other Federal assistance programs as well. SNAP also maintains a Quality Control system that requires significant State resources to regularly review certification activities to ensure the accuracy of SNAP benefit determinations. Quality Control measures errors in SNAP benefit payments and holds States responsible for their performance by assessing financial liabilities on States with low rates of payment accuracy. As a result, States remain quite focused on maintaining their performance in this area. While State agencies may be highly motivated to improve access to telecommunication services, they may not be in a position to implement a new Federal assistance program because of these competing demands.

- 3) **Federal funding for SNAP can only be spent on SNAP activities.** Section 18(a)(1) of The Food and Nutrition Act of 2008, as amended, authorizes to be appropriated such sums as necessary to carry out SNAP. SNAP appropriations are only available to cover costs associated with administering SNAP and providing food assistance benefits to eligible households. State agencies that administer SNAP are reimbursed by the Federal government for 50 percent of their allowable administrative costs. The other 50 percent of allowable

SNAP administrative costs are paid for with State and local funds. Benefits are funded 100 percent by the Federal government.

When States engage in joint processing, the eligibility worker's time is cost allocated among all the Federal assistance programs. Federal and State SNAP resources can only compensate the portion of the eligibility worker's time spent reviewing SNAP eligibility information and making SNAP eligibility determinations. Similarly, Federal SNAP oversight only applies to the portion of the eligibility worker's time allocated to SNAP. In other words, FNS, through its integrity and monitoring functions, is only responsible for monitoring the work the eligibility worker has performed with regard to making SNAP eligibility determinations. FNS cannot legally reimburse State agencies for work leading to eligibility determinations made in other Federal assistance programs-i.e.-Lifeline.

The FCC could choose, with the agreement and cooperation of the State agency, to reimburse the State agency already administering SNAP to also administer Lifeline enrollment and certification functions. In such a situation, Lifeline would likely need to adequately fund the State agency for the portion of the eligibility worker's time spent making eligibility determinations for Lifeline, as well as reimburse the State agency for any additional direct and indirect costs (e.g., system costs) associated with Lifeline administration. As noted above, SNAP funds cannot be used to financially support the processing of a Lifeline application or the final eligibility determination for Lifeline. Moreover, any work performed by the State agency on behalf of Lifeline would be done outside the purview of FNS administration and oversight.

- 4) **FCC and SNAP have an existing data sharing agreement outlining appropriate procedures.** FNS understands that Lifeline consumers are eligible for telecommunication services if they receive benefits from one of several designated programs, including SNAP. FNS has communicated with FCC in the past regarding coordination between SNAP and Lifeline, including issuing a joint letter on June 13, 2014, outlining the steps SNAP State agencies could take to verify enrollment in SNAP as a condition of eligibility for Lifeline. This letter concluded that, under Section 11(e)(8)(A) of the Food and Nutrition Act, SNAP State agencies may disclose certain SNAP recipient information to persons directly connected with the administration or enforcement of Lifeline for the purpose of verifying whether an applicant consumer qualifies for Lifeline. SNAP further clarified that the sharing of data is limited to a "yes/no response to the ETC [Eligible Telecommunications Carrier] stating whether the applicant consumer is in fact receiving SNAP benefits." Without the establishment of a jointly administered program with SNAP by the State agency (as is currently done in some States with other Federal assistance programs), any additional sharing of data beyond the yes/no response would be contrary to the agreement in the joint letter.

FNS believes that this joint letter still accurately reflects a workable approach for data sharing between Lifeline and SNAP State agencies. As stated above, it remains a State

agency decision whether or not to share SNAP enrollment information (i.e. yes/no information on SNAP enrollment) with Lifeline providers. SNAP State agencies can choose to provide this limited information to Lifeline providers, per the 2014 joint letter, provided the State agency and the Lifeline provider have a data sharing agreement, whether or not the State agency has implemented joint processing of SNAP and Lifeline applications.

If Lifeline and an individual State agency choose to establish a data sharing agreement per the 2014 joint letter, it remains incumbent upon Lifeline to establish and maintain a Lifeline supported verifier to process Lifeline applications and make the final eligibility decision.

- 5) **FNS' SNAP regulations are not wholly consistent with Lifeline's goals.** In the proposed rule, the FCC asks "how can the Commission best coordinate with or rely upon SNAP Administrators when verifying eligibility and enrolling subscribers." FNS acknowledges there is overlap in the populations served by both programs and, for this reason, issued the June 13, 2014, joint letter to create better coordination. While FNS is pleased to do its part to increase access to telecommunication services among eligible households, solely relying on SNAP to identify eligible families for Lifeline would have serious drawbacks.

First, SNAP is a food assistance program, not a telecommunications program. SNAP's rules and operations were not established to determine eligibility for or to provide telecommunication services. Although there is some convergence of the client population between the two programs, SNAP necessarily focuses more on hunger, food access, household composition, household expenses and medical costs, not only household income (as is the case with Lifeline). Consequently SNAP is not an appropriate vehicle for solely determining Lifeline eligibility. Second, SNAP certification procedures may be more extensive than necessary for Lifeline's needs. SNAP applicants must provide information on household expenses, medical deductions (in elderly and disabled households), and household composition that is not applicable to Lifeline. Third, SNAP is unable to serve certain segments of the low-income population who may still be eligible for Lifeline services. For instance, SNAP cannot enroll certain types of students, drug felons, or individuals who have not met SNAP work requirements. Lastly, not all households eligible for SNAP benefits enroll in the program for a wide variety of reasons. Elderly households are notably underserved by SNAP, and this population may most benefit from Lifeline services because mobility issues make seniors more dependent on telecommunication services to maintain connections with the world outside their home.

- 6) **Disbursement of Lifeline benefits on SNAP EBT cards would present several challenges.** FNS also understands that the FCC has proposed placing Lifeline benefits directly on SNAP EBT cards. SNAP EBT benefits can only be used for eligible food purchases at authorized food stores; therefore, Lifeline benefits cannot be placed directly into the SNAP benefit account on the EBT card because the account can only be used to purchase food. State agencies, however, use either EBT cards with an additional cash account or

branded (MasterCard/VISA) prepaid electronic payment cards (EPC), similar to an ATM debit card, for other programs' benefits. For example, Temporary Assistance for Needy Families (TANF) benefits, unemployment benefits, childcare and other cash benefits are often placed in a cash account on one of these cards. Lifeline benefits could potentially be added to an EBT or EPC cash account. Since money in additional cash accounts can be used anywhere, there is no guarantee that the Lifeline benefits would be used to pay the telecommunication provider as intended. To obtain such a guarantee, the funds would need to be placed in a separate restricted cash account, set up to limit payments only to designated telecommunications providers. However, this would increase the associated administrative costs.

Another option that may be more cost effective while ensuring accountability would be for Lifeline or the State agency to provide monthly direct deposits to the consumer's telecommunication provider of choice.

In sum, FNS recognizes the importance of the services provided by Lifeline, and will continue to play our part in assuring eligible households have access to the program. This includes supporting State agencies that enter into agreements with local Lifeline providers to provide limited enrollment information per the June 13, 2014, joint letter. While State agencies have the ability to choose to further coordinate enrollment between Lifeline and SNAP, provided costs are properly allocated, FNS would be most interested in ensuring the quality and integrity of the State's SNAP services would not be diminished as a result. Additionally, while joint processing may suggest some efficiencies for Lifeline, the challenges for such a step, as discussed above, would need to be considered and may very well negate any potential improvements in Lifeline program administration. Most notably, the difficulty in coordinating with 50 or more State agencies, and ensuring that systems are in place in each State to ensure proper cost allocation, are long term projects that may not fully meet Lifeline's goals of improved program integrity. Lastly, adding Lifeline benefits to the SNAP EBT card may not produce the improvements in efficiency sought by the FCC.

National School Lunch Program

The NSLP, authorized in the Richard B. Russell National School Lunch Act, 42 USC 1771 et seq., is a federally assisted meal program that provides cash subsidies in the form of reimbursements and donated USDA Foods to local educational agencies (LEAs) to support service of nutritionally balanced, low cost or free meals to children in public or private schools and residential child care institutions. Generally, children from families with incomes at or below 130 percent of the poverty level are eligible for free meals. Those with incomes between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals. Children from families with incomes over 185 percent of poverty pay a full price for meals, although their meals are still subsidized with both federal funds and USDA foods.

The NSLP is administered at the Federal level by the USDA FNS. At the State level, the NSLP is usually administered by State education agencies, which operate the program through agreements with local school food authorities. While the NSLP is a Federal program, it is statutorily designed to be administered at the State and local level. Each State agency makes its own decisions about how to operate the NSLP while complying with Federal law. FNS ensures that States are implementing NSLP in accordance with Federal law and regulations and consistent with NSLP policy.

The Federal Communications Commission (FCC) in 47 CFR Part 54, has proposed coordinating enrollment between NSLP and Lifeline. Because FCC did not consult USDA FNS prior to publishing its proposal, we provide initial comments on the proposal here. FNS has significant concerns with the FCC's proposal, based on attendant policy, administrative, and legal issues.

1. NSLP appropriated federal funds may be used only for allowable and allocable NSLP purposes at the federal, State and local levels. As a result, such funds would not be available to verify eligibility for Lifeline, as proposed by the FCC. Section 4(a) of the Richard B. Russell National School Lunch Act, 42 USC 1753, authorizes funds necessary to administer and provide school meals under the NSLP. FNS and State agency oversight and monitoring can only be applied to NSLP related activities. If an LEA or State agency were to implement joint processing for Lifeline and the NSLP, as proposed by the FCC, FCC would be required to provide funds for that purpose – either through reimbursement to the State agency for any direct or indirect costs associated with work performed by the State or LEA on behalf of Lifeline or through a direct grant.
2. State agencies and LEAs administering the NSLP strive to improve existing services with limited State, Federal, and local resources. The proposed addition of Lifeline eligibility and outreach activities to existing NSLP eligibility systems would create additional costs for State and local educational agencies. For example, at this time FNS is working closely with States to improve the integrity of the program through technical assistance, enhanced monitoring and administrative review of operations. In part, this responds to statutory directive and an increased interest on the part of the Administration as well as Congress in increasing Program integrity. LEAs and States assuming additional administrative duties for the Lifeline program would then need to balance the competing new activities with the priority of improving the existing operations of the NSLP.
3. Many low-income students in participating schools are eligible for free or reduced price school meals based on participation in SNAP, authorized by the Food and Nutrition Act of 2008, 7 USC 2011, et seq. Households with students directly certified for free or reduced-price school meals through SNAP may already be receiving Lifeline benefits, since we understand many SNAP State agencies already have verification agreements in place with

Lifeline's Eligible Telecommunication Carriers (ETCs). In school year 2013-14, an estimated 87 percent of school-age SNAP participants were directly certified for free school meals. As the number of LEAs directly certifying SNAP participant children continues to increase, using school information to establish eligibility for Lifeline may be duplicative and an unnecessary burden for school staff.

In accordance with the Richard B. Russell National School Lunch Act, USDA FNS would not be authorized to require a State agency or LEA to cooperate with the FCC's Lifeline Program. Section 9(b)(6) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)), specifically enunciates the confidentiality protections and limited disclosure provisions for school meals eligibility information. Implementing regulations can be found at 7 CFR Parts 210 and 245. At a minimum, LEAs would need to seek written consent from a parent or guardian in order to disclose any information provided by a household for non-program purposes or purposes not directly connected to the administration or enforcement of a Federal education program, State education program, State health program, or a means-tested nutrition program. In accordance with NSLP provisions, any process seeking consent cannot be a barrier to the eligibility process for participation in the NSLP. We cannot conclude that the FCC proposal would streamline the Lifeline access process, but would anticipate that it could be a barrier to NSLP participation.

4. The Community Eligibility Provision (CEP) and Provision 2 and 3 of Section 11 of the Richard B. Russell National School Lunch Act, 42 USC 1759a, provide alternative approaches for offering school meals in low income areas. Instead of collecting individual applications, these provisions establish eligibility for free and reduced price meals through other means. FCC acknowledged these statutory requirements in its proposal. Determining Lifeline eligibility in schools utilizing the new CEP provisions and the long-standing Provision 2 and 3 Provisions would be extremely difficult for the LEAS and State agencies. In those LEAS and schools implementing these participation options, individual eligibility for children is not determined. As a result, some households with children receiving free meals may have income above the 135 percent poverty limit, which is the Lifeline limit. Linking Lifeline eligibility to income eligibility in these schools would defeat the purpose of streamlining the eligibility process in schools and would not improve the integrity of the Lifeline eligibility process.

Food Distribution Program on Indian Reservations

FDPIR is administered at the Federal level by FNS. FDPIR is administered locally by either Indian Tribal Organizations (ITOs) or an agency of a State government. Currently, there are approximately 276 tribes receiving benefits under the FDPIR through 100 ITOs and 5 State agencies.

USDA purchases and ships FDPIR foods to the ITOs and State agencies based on their orders from a list of available foods. These administering agencies store and distribute the food, determine applicant eligibility, and provide nutrition education to recipients. USDA provides the administering agencies with funds for program administrative costs.

FDPIR has provided the following direct responses to the questions stated in the proposed rule.

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28. The Commission proposes to establish minimum service levels for fixed and mobile voice and broadband service that Lifeline providers must offer to all Lifeline customers in order to be eligible to receive Lifeline reimbursement. The Commission also seeks comment on minimum standards for Tribal Lifeline, recognizing the additional support may allow for greater service offerings.

Comment: Food Distribution Program on Indian Reservations (FDPIR) applicants may be interviewed for eligibility and recertification by telephone. The average eligibility interview time is between 20 and 60 minutes. Participants can also call in during the month to check distribution schedules, report household/eligibility changes, and inquire about nutrition education activities. Note that Tribal needs for Lifeline extend beyond FDPIR. The USDA Office of Tribal Relations could provide additional, useful insight. The Director of the USDA Office of Tribal Relations is Leslie Wheelock, who may be reached at Leslie.Wheelock@osec.usda.gov.

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68. The Commission also seeks comment on ways a national verifier could access state eligibility databases to verify subscriber eligibility prior to review of consumer eligibility documentation. Would this step improve the efficiency of the enrollment process? How would requiring a national verifier to utilize a state eligibility database for eligibility verification interplay with any standards set for state databases, as discussed below?

And

70. The Commission also seeks comment on standards for any database or state-led process used to verify Lifeline program eligibility and how the states must meet these requirements as part of their request to opt-out of a national verifier. The Commission seeks comment on requirements for state eligibility databases generally in order for a state to qualify to opt out of a national verifier. Specifically, the Commission seeks comment on whether state eligibility databases should be required to verify eligibility for each Lifeline qualifying program, or whether such a requirement would impose an unreasonable burden.

Comment: FDPIR currently does not have an eligibility system that can be accessed by a third party. Such systems are localized to each Tribe.

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92. How can the Commission better coordinate and build upon the work already invested by state and federal agencies to confirm consumers are eligible for programs. The Commission seeks comment on the incremental costs of adding Lifeline to an existing eligibility database in lieu of setting up a separate national framework. Would such administrative burdens and costs outweigh the benefits of such a proposal?

Comment: FDPIR operates on a limited administrative budget; the costs may outweigh the benefits for that program. Given that FDPIR is a qualifying program for Lifeline, integration into the FDPIR eligibility system is not necessary.

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107. The Commission first seeks comment on which federal assistance programs it should continue to use to qualify low-income consumers for support under the Lifeline program. The Commission specifically seeks comments on any potential drawbacks in limiting the qualification criteria for Lifeline support exclusively to households receiving benefits under a specific federal assistance program(s). For example, if the Commission no longer permits consumers to qualify through Tribal-specific programs, what would be the impact to low-income consumers on Tribal lands?

Comment: FDPIR is an important program among the Tribal community and serves as a statutory alternative to SNAP for households that do not have access to a SNAP office or outlet. We advise that if the Commission keep SNAP as a qualifying program, then FDPIR must be kept as well.

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2. Tribal Lands Support 151. The Commission now turns to the universal service support provided to low-income recipients residing on Tribal lands, often referred to as enhanced Tribal support. Enhanced support provides a higher monthly subsidy amount as well as Link Up at service activation. In this section, the Commission seeks additional information on whether and how enhanced Tribal support is being utilized on Tribal lands, and whether the minimum service level for Tribal consumers should be different from the proposed minimum service levels for other consumers. The Commission also seeks comment on narrowly tailoring enhanced support to ensure that it actually supports the deployment of infrastructure. It also seeks comment on requiring additional documentation to demonstrate that a subscriber resides on Tribal lands.

And Pg. 24

164. *Changes to Self-Certification Requirement.* The Commission seeks comment on whether to require additional evidence of residency on Tribal lands beyond self-certification.

Comment: Keeping FDPIR as a qualifying program would help demonstrate residency on or near Tribal lands, as this is a requirement for FDPIR.

Conclusion

Thank you for this opportunity to comment on your proposed rule. I appreciate the efforts the FCC is making to expand telecommunication services to low income households, particularly in rural areas and among households with children. Telecommunication services are critical to connecting low income households with jobs, learning opportunities, and a wide variety of services that can improve their quality of life.

While FNS nutrition assistance programs may not provide the appropriate mechanisms to enhance Lifeline program administration, I am pleased that existing agreements between FCC and FNS are serving to improve Lifeline access. As discussed, enrollment in three FNS programs – SNAP, NSLP and FDPIR – serves to deem households as eligible for Lifeline. In addition, SNAP has enhanced this relationship by issuing a joint letter with FCC creating a mechanism to confirm the current enrollment of Lifeline applicants in SNAP.

I look forward to continuing these partnerships as Lifeline implements new services. Please feel free to contact Laura Griffin at Laura.Griffin@fns.usda.gov for additional information or questions.

Sincerely,



Kevin W. Concannon
Under Secretary
Food, Nutrition, and Consumer Services